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UNITED STATES OF AMERICA

9 UNITED STATES DISTRICT COURT

10 FOR THE CENTRAL DISTRICT OF CALIFORNIA

11 UNITED STATES OF AMERICA,

12 Plaintiff,

13 v.

14 YAN SUI,

15 Defendant.

No. 2:24-cr-00498-JAK

GOVERNMENT'S OPPOSITION TO
DEFENDANT'S MOTION TO OBTAIN GRAND
JURY TRANSCRIPTS

Hearing Date: September 26, 2024
Hearing Time: 10:30 a.m.
Location: Courtroom of the
Hon. John A.
Kronstadt

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19 Plaintiff United States of America, by and through its counsel
20 of record, the United States Attorney for the Central District of
21 California and Assistant United States Attorney Matt Coe-Odess,
22 hereby files its opposition to Defendant's Motion to Obtain Grand
23 Jury Transcripts (Dkt. 13).

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1 This opposition is based upon the attached memorandum of points
2 and authorities, the files and records in this case, and such further
3 evidence and argument as the Court may permit.

4 Dated: September 19, 2024

Respectfully submitted,

5 E. MARTIN ESTRADA
6 United States Attorney

7 MACK E. JENKINS
8 Assistant United States Attorney
9 Chief, Criminal Division

10 /s/
11 _____
12 MATT COE-ODESS
13 Assistant United States Attorney

14 Attorneys for Plaintiff
15 UNITED STATES OF AMERICA
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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Defendant moves to compel the government to produce grand jury
4 transcripts pertaining to the indictment, which charges defendant
5 with three counts of criminal contempt in violation of 18 U.S.C. §
6 401(3). Defendant summarily alleges that the grand jury would not
7 have indicted him for criminal contempt "had [the] government
8 honestly presented the relevant facts to the grand jury." (Motion at
9 2.) However, access to grand jury records "may not be ordered unless
10 the defendant demonstrates with particularity the existence of a
11 compelling need that is sufficient to outweigh the policy of grand
12 jury secrecy." United States v. DeTar, 832 F.2d 1110, 1113 (9th Cir.
13 1987). Defendant fails to make the requisite showing, and
14 defendant's motion should be denied.

15 **II. DISCUSSION**

16 **A. Defendant Shows No Particularized Compelling Need that**
17 **Outweighs the Policy of Grand Jury Secrecy**

18 It is well established that "[t]he secrecy of grand jury
19 proceedings is an integral part of our criminal justice system."
20 United States v. Nix, 21 F.3d 347, 351 (9th Cir. 1994) (quotations
21 omitted); see also United States v. Smith, 2008 U.S. Dist. LEXIS
22 33994, at *3 (C.D. Cal. Apr. 21, 2008) ("Grand jury proceedings are
23 presumptively secret."); see generally Fed. R. Crim. P. 6(e). Access
24 to grand jury records "may not be ordered unless the defendant
25 demonstrates with particularity the existence of a compelling need
26 that is sufficient to outweigh the policy of grand jury secrecy."
27 United States v. DeTar, 832 F.2d 1110, 1113 (9th Cir. 1987). Even
28 then, "when disclosure is permitted, it is to be done discretely and

1 limitedly." Dennis v. United States, 384 U.S. 855, 868 (1966)
2 (quotations omitted).

3 Here, defendant seeks disclosure of the grand jury testimony in
4 this case because he concludes he should not have been indicted and
5 claims "it remain[s] an open question whether the government
6 presented the complete fact[s] to the grand jury." (Motion at 2.)
7 But "unsubstantiated, speculative assertions of improprieties in the
8 proceedings do not supply the particular need required to outweigh
9 the policy of grand jury secrecy." United States v. Ferreboeuf, 632
10 F.2d 832, 835 (9th Cir. 1980) (quotations omitted). Defendant's
11 motion relies only on his own insistence that the 2011 bankruptcy
12 proceeding that preceded his alleged criminal contempt was improper
13 and resulted in "theft under California law." (Motion at 2.)
14 Defendant points to nothing concrete that demonstrates any misconduct
15 before the grand jury, nor can he make the circular argument that he
16 needs the grand jury transcripts to make such a claim. See United
17 States v. Bennett, 702 F.2d 833, 836 (9th Cir. 1983) ("The
18 defendant's assertion that he has no way of knowing whether
19 prosecutorial misconduct occurred does not constitute a
20 particularized need outweighing the need for grand jury secrecy.");
21 DeTar, 832 F.2d at 1113 ("It is not sufficient for DeTar to assert
22 that he has no way of knowing whether prosecutorial misconduct
23 occurred.").

24 Accordingly, defendant's "unsubstantiated, speculative
25 assertions of improprieties" are insufficient to mandate disclosure
26 of the grand jury transcripts in this case. See Smith, 2008 U.S.
27 Dist. LEXIS 33994, at *8 ("[B]ecause Defendant has not shown a
28 particularized need to disclose grand jury transcripts, the Court

1 need not balance his need against the policy reasons for grand jury
2 secrecy.").

3 **III. CONCLUSION**

4 For the foregoing reasons, the government respectfully requests
5 that this Court deny defendant's motion to obtain grand jury
6 transcripts.